

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for May 11, 2005 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #05021

PROPOSAL: To expand the area where the sale of alcoholic beverages for consumption on the premises is allowed for Ramos Pizza at 2435 South 48th Street.

CONCLUSION: This request complies with all applicable criteria for a special permit for the sale of alcohol for consumption on the premises, and is an appropriate land use at this location.

<u>RECOMMENDATION:</u>	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached ownership certificate.

LOCATION: 2435 South 48th Street (½ block south of the intersection of South 48th Street and Normal Blvd)

EXISTING ZONING: B-1 Local Business

EXISTING LAND USE: Commercial

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-1
South:	Commercial	B-1
East:	Commercial, Park	B-1, P
West:	Office	O-2

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates commercial land uses in this area.

BACKGROUND: The building, a former Pizza Hut, is now occupied by Ramos Pizza. Part of the business involves on-sale alcohol which is served both at the indoor dining room and the outside patio area. This request seeks to expand the outdoor patio by moving the privacy fence that surrounds it 8' to the east.

The sale of alcohol at this location pre-dates 1994 when the Zoning Ordinance was amended to require special permits for on and off-sale alcohol. It complies with the applicable requirements, and as a result is considered a pre-existing special permit per LMC Section 27.63.040. That section requires that any enlargement or expansion be treated in the same manner a new special permit with a public hearing before the Planning Commission and is the basis for this request.

ANALYSIS:

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)

27.63.680: Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. Alcoholic beverages may also be sold for consumption on the premises as an accessory use to a golf course or country club as part of a separate special permit under Section 27.63.130 approving the golf course or country club in any district where recreational facilities are allowed as a permitted use, permitted conditional use, or permitted special use. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) Parking shall be provided on-site at the ratio of one space per 100 square feet of gross floor area.

Based upon floor area, 22 spaces are required. With 45 spaces shown, 23 spaces in excess of the required number are provided.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.

This application is for a special permit to allow the sale of alcohol for consumption on the premises. The sale of alcoholic beverages off the premises is not a part of this proposal and is not being requested.

(c) The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district (except where such use is accessory to a golf course or country club).

The licensed premises is located within a larger B-1 commercial center that extends from Normal Blvd to Van Dorn Street on both sides of South 48th Street. Of the five items the use must be separated from, a park and a residential district are the only two

in proximity. It should be noted that the P zoning for Roose Park across South 48th Street begins at the east edge of the right-of-way, and from the closest point of the proposed patio area the park is approximately 108' away. Additionally, there are residential districts to the east and southwest, but both are in excess of 300' away. The table below indicates the separation distances, and shows the licensed premises meets the 100' separation requirement as there is no day care facility, park, church, state mental health institution, or residential district within 100' of the premises.

	Day Care	Park	Church	State Mental Health Facility	Residential District
East	n/a	Approx. 108'	n/a	n/a	Approx. 300'
Southwest	n/a	n/a	n/a	n/a	Approx. 360'

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

No additional lighting is proposed in conjunction with the proposed expansion.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not shown as part of this application.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

No such devices are shown as part of this application.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

There is no potential for access doors being located within 150' of a residential district, as noted previously the nearest residential district is in excess of 300' away from the site.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to the premises is from South 48th Street and Antelope Creek Road, neither of which are considered a "residential street" at this location.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

Planning Commission approval is required for this use.

2. DEPARTMENT RESPONSES:

POLICE: The Police Department had no objection to this request.

PUBLIC WORKS: Public Works and Utilities had no objection to this request.

HEALTH: As an advisory note, the Health Department recommends that if smoking is allowed in the outdoor patio area, that at least 20% of the area of the total square footage of the walls and ceiling be open to ensure adequate ventilation.

CONDITIONS:

Site Specific:

1. This approval permits the expansion of the area designated for the sale of alcohol for consumption on the premises as shown on the site plan.

General:

2. Before receiving building permits:
 - 2.1 The construction plans comply with the approved plans.

Standard:

3. The following conditions are applicable to all requests:
 - 3.1 Before the sale of alcohol for consumption on the premises, all development and construction is to comply with the approved plans.
 - 3.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

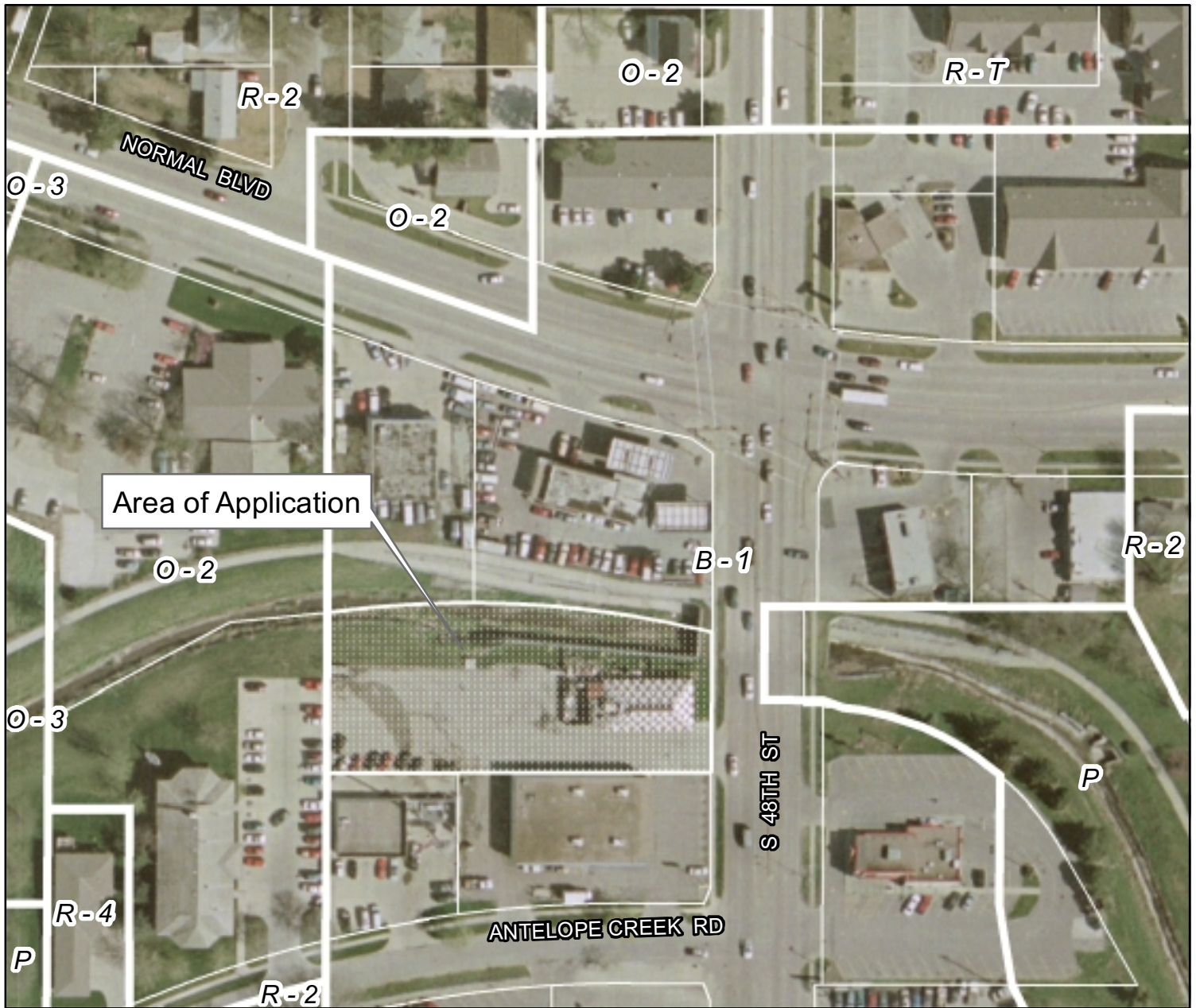
Prepared by:

Brian Will, AICP, 441-6362, bwill@lincoln.ne.gov
Planner
April 27, 2005

OWNER: Westfork Downs
8909 Saltillo Road
Lincoln, NE 68526
(402) 423-5676

APPLICANT: Ramos Pizza
2435 S. 48th Street
Lincoln, NE
(402) 483-5050

CONTACT: Jeff Dodge
415 N. 44th Street #1216
Lincoln, NE
(402) 430-2579



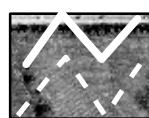
2002 aerial

Special Permit #05021 S. 48th & Normal

Zoning:

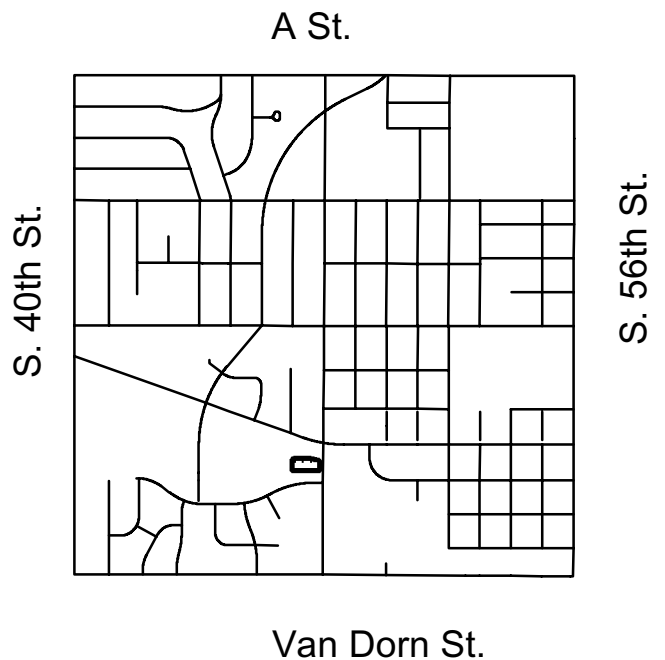
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 32 T10N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction





Sidewalk to →
Curb = 11 feet

South
48th
Street
← 58' →

5-0434-14

175528

Lot

Block Buster Video Building

calc $17'' = 369 \text{ ft.}$
 $1' = 21.71 \text{ ft.}$

NOCTH

Legal Description: Sec 32 Town 10
Range 7 Lot 431

King Stalls: 45

Purpose for Special Permit Application Ramos Pizza Inc.

Ramos Pizza Inc, 2435 S. 48th, operates as Ramos Pizza Pub and Buster's BBQ. We offer a diverse menu available for dine-in, carryout, and delivery. The restaurant seats 50 in the main area and 16 at the bar. TVs throughout the restaurant give it a "sports-bar" feel.

The beer garden overlooks Antelope Creek on the north side of the restaurant. The licensed area is the entire fenced in area to the north of the building. However, only the patio on the west end of the beer garden offers a level area for seating, as the entire area slopes down to a fence and retaining wall above the creek. The Fire and Safety occupancy for our beer garden is set at 49, while the patio area only allows room for 16 to 20 persons.

Therefore we would like to build a small deck over the sloped area to allow for a few more umbrella tables in order to take advantage of the occupancy. However, Lincoln Electric System has a large power pole and support wires taking up most of this area. Thus, we would like to move the east fence 8 ft. further to the east to allow for a small deck.

I would like to emphasize that we are not apply for the special permit in order to enlarge our beer garden, but only to better accomodate the people for which we are currently licensed. Ie, our occupancy would stay the same, but the area would be more user friendly.

We feel very fortune to have such a scenic overlook for a beer garden. The smoking ban has actually helped to increase sales in our dining room and bar , contrary to what some bars are reporting. We plan to cover the patio area and do some creative landscaping as well. We look forward to offering one of Lincoln's premier outdoor dining experiences.

Thank You for your consideration in the matter.

Sincerely,



Jeff Dodge
President, Ramos Pizza Inc
2435 S. 48th St.
Lincoln, NE 68506
483-5050

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Brian Will	DATE: April 25, 2005
DEPARTMENT: Planning	FROM: Chris Schroeder
ATTENTION:	DEPARTMENT: Health
CARBONS TO: EH File EH Administration	SUBJECT: Ramos Pizza SP #05021

The Lincoln-Lancaster County Health Department has reviewed the special permit application with the following noted:

- According to the submitted documentation with this special permit application, the applicant indicates they are planning to cover the existing patio area. If smoking will be allowed in this area, the LLCHD recommends at least 20% open space relative to the total square footage of the walls and ceiling to ensure adequate ventilation for protecting public health.

OWNERSHIP CERTIFICATE

FILE NO: 6020657

**TO: Jeff Dodge
Ramos Pizza**

Nebraska Title Company, authorized to engage in the business of abstracting in the State of Nebraska under Certificate of Authority No. 56, hereby certifies that the records of LANCASTER County, Nebraska have been carefully examined with referenced to the following described property, and from such examination finds as follows:

LEGAL DESCRIPTION:

Lot 431 Irregular Tract in the Southwest Quarter of Section 32, Township 10 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska

Address: 2435 S 48 St, Lincoln, NE 68506

OWNER OF RECORD:

Westfork Downs L.L.C.

Effective Date: March 18, 2005 at 8:00 am

Nebraska Title Company

By: _____

Joan F. Journey
Vice-President
Registered Abstractor

Please direct inquiries to: Joan Journey